

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.**

**COMPANY APPEAL NO. 22 OF 2005
IN
COMPANY PETITION NO.7 OF 2002**

Laxmi Ventures (India) Ltd. & Ors. ... Appellants.
V/s.

Sunil Kumar Agarwal & Ors. ... Respondents.
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Mr. Dipan Merchant, Sr. Advocate, Mr. P.P. Paul
i/b. Nanu Hormasjee & Co. for the Appellants.
Mr. Krishna Kumar with Mr. Pritosh Jaiswal i/b.
Vishal Khanavkar & Kedar Dighe for the Respondents.
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CORAM : DR.D.Y.CHANDRACHUD, J.

4TH MAY, 2007.

P.C. :

. The Appeal before this Court under Section 10F of the Companies Act, 1956 arises out of an interlocutory order dated 6th June 2005 passed by the Company Law Board (CLB) in C.A.21 of 2005. The Appeal was admitted on 19th August 2005 and at the stage of admission parties had agreed to a mediation into their disputes. The Court has now been informed that the mediation was not successful. The order of admission dated 19th August 2005 contains a direction that until further orders, proceedings before the Company Law Board

shall remain stayed.

2. The grievance of the Respondents is that as a result of the interim order of this Court staying further proceedings before the CLB, they have been unable to pursue the proceedings in the Petition under Sections 397 and 398 of the Companies Act, 1956 which is pending final disposal before the CLB. The proceedings before the CLB have remained stayed since 19th August 2005. Counsel appearing on behalf of the Petitioners and the Respondents are agreed in stating before the Court that instead of this Court being called upon to enter upon the correctness of the interlocutory order passed by the CLB, it would be appropriate if, by consent, the impugned order dated 6th June 2005 is set aside without the expression of any final opinion by this Court on the merits of the rival contentions between the parties. The approach adopted by both the parties through their Counsel is fair and would commend itself for acceptance. It is in the interests of justice that the proceedings instituted under Sections 397 and 398 are concluded on an expeditious basis. With a view to facilitate this and without expressing any

opinion on the correctness of the observations contained in the impugned order or on the rights and contentions of the parties, the impugned order dated 6th June 2005 is by consent quashed and set aside. The parties have agreed through their Counsel that they shall appear before the CLB at 2.30 p.m. on 15th May 2007 in order to enable the Company Law Board to issue directions for setting down the Company Petition for hearing and final disposal. The parties have also agreed to cooperate in the expeditious disposal of the Company Petition. The CLB is requested to endeavour an early disposal, consistent with the exigencies of its own work preferably within a period of four months of the date of the commencement of the final hearing.

3. In so far as the issue of inspection is concerned, it is clarified by consent that all the rights and contentions of the parties are kept open, to be urged before the CLB, including the submission urged on behalf of the Seventh Respondent that an adverse inference should be drawn in case the Board comes to the conclusion that inspection of relevant documents was unreasonably withheld by the Company. Parties have

agreed before this Court that no further interlocutory application shall be filed with regard to the issue of deposit for a period of four months since the parties have agreed to ensure an early disposal of the proceedings.

4. The Appeal is accordingly disposed of. There shall be no orders as to costs.

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